

House Study Bill 672

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
LABOR BILL BY CHAIRPERSON
OLSON)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring certain weekly workers' compensation benefits to
2 be calculated by including an employee's overtime, shift
3 differential, and premium pay.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6472YC 82
6 av/rj/8

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1 1 Section 1. Section 85.36, subsections 6 and 7, Code 2007,
1 2 are amended to read as follows:

1 3 6. In the case of an employee who is paid on a daily or
1 4 hourly basis, or by the output of the employee, the weekly
1 5 earnings shall be computed by dividing by thirteen the
1 6 earnings, ~~not~~ including ~~but not limited to~~ overtime ~~or, shift~~
1 7 differential, and premium pay, of the employee earned in the
1 8 employ of the employer in the last completed period of
1 9 thirteen consecutive calendar weeks immediately preceding the
1 10 injury. If the employee was absent from employment for
1 11 reasons personal to the employee during part of the thirteen
1 12 calendar weeks preceding the injury, the employee's weekly
1 13 earnings shall be the amount the employee would have earned
1 14 had the employee worked when work was available to other
1 15 employees of the employer in a similar occupation. A week
1 16 which does not fairly reflect the employee's customary
1 17 earnings shall be replaced by the closest previous week with
1 18 earnings that fairly represent the employee's customary
1 19 earnings.

1 20 7. In the case of an employee who has been in the employ
1 21 of the employer less than thirteen calendar weeks immediately
1 22 preceding the injury, the employee's weekly earnings shall be
1 23 computed under subsection 6, taking the earnings, ~~not~~
1 24 including overtime ~~or, shift differential, and~~ premium pay,
1 25 for such purpose to be the amount the employee would have
1 26 earned had the employee been so employed by the employer the
1 27 full thirteen calendar weeks immediately preceding the injury
1 28 and had worked, when work was available to other employees in
1 29 a similar occupation. If the earnings of other employees
1 30 cannot be determined, the employee's weekly earnings shall be
1 31 the average computed for the number of weeks the employee has
1 32 been in the employ of the employer.

1 33 Sec. 2. Section 85.61, subsection 3, Code Supplement 2007,
1 34 is amended to read as follows:

1 35 3. "Gross earnings" means recurring payments by employer
2 1 to the employee for employment, before any authorized or
2 2 lawfully required deduction or withholding of funds by the
2 3 employer, excluding irregular bonuses, retroactive pay,
2 4 ~~overtime~~, penalty pay, reimbursement of expenses, expense
2 5 allowances, and the employer's contribution for welfare
2 6 benefits.

EXPLANATION

2 8 This bill requires the calculation of the amount of weekly
2 9 workers' compensation benefits to include, not exclude, an
2 10 employee's earnings for overtime, shift differential, and
2 11 premium pay.

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2 13 av/rj/8